
By: **Delegate Jones**
Introduced and read first time: January 31, 2003
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Child Support Enforcement - Financial Institution - Definition**

3 FOR the purpose of altering the definition of financial institution in a provision
4 requiring a financial institution to provide certain information and assistance to
5 the Child Support Enforcement Administration; providing for the construction of
6 a certain reference for certain purposes; establishing that an
7 institution-affiliated party is not required to provide certain information or
8 assistance to the Administration under certain circumstances; providing certain
9 immunity from civil liability or criminal penalty for an institution-affiliated
10 party; defining a certain term; and generally relating to child support
11 enforcement.

12 BY repealing and reenacting, with amendments,
13 Article - Family Law
14 Section 10-108.2, 10-108.3, and 10-108.4
15 Annotated Code of Maryland
16 (1999 Replacement Volume and 2002 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article - Family Law**

20 10-108.2.

21 (a) (1) [In] EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, IN this
22 section and in [§ 10-108.3] §§ 10-108.3 AND 10-108.4 of this [subtitle] SUBTITLE, the
23 following words have the meanings indicated.

24 (2) (i) "Account" means:

25 1. any funds from a demand deposit account, checking
26 account, negotiable order of withdrawal account, savings account, time deposit
27 account, money market mutual fund account, or certificate of deposit account;

1 CONSTRUED TO INCLUDE A CREDIT UNION INSURED IN ACCORDANCE WITH §
2 6-701(A)(2) OF THE FINANCIAL INSTITUTIONS ARTICLE.

3 [(b)] (C) To carry out the purposes of this section, the Administration may
4 request from any financial institution information and assistance to enable the
5 Administration to enforce the liability of a parent to support a child of the parent.

6 [(c)] (D) (1) The Administration may request not more than four times a
7 year from a financial institution the information set forth in subsection [(d)(2)] (E)(2)
8 of this section concerning any obligor in arrears in paying child support through a
9 support enforcement agency.

10 (2) A request for information by the Administration under paragraph (1)
11 of this subsection shall:

12 (i) contain:

13 1. the full name of the obligor and any other names known to
14 be used by the obligor; and

15 2. the Social Security number or other taxpayer
16 identification number of the obligor; and

17 (ii) be transmitted to the financial institution in an electronic
18 format unless the financial institution specifically asks the Administration to submit
19 the request in writing.

20 [(d)] (E) (1) Within 30 days after a financial institution receives a request
21 for information under subsection [(c)] (D) of this section, the financial institution
22 shall:

23 (i) notify the Administration that the financial institution submits
24 reports indirectly through the Federal Parent Locator Service under 42 U.S.C. §
25 666(a)(17); or

26 (ii) with respect to each obligor whose name the Administration
27 submitted to the financial institution and who maintains an account with the
28 financial institution, submit a report to the Administration.

29 (2) The report described in paragraph (1)(ii) of this subsection shall
30 contain, to the extent reflected in the records of the financial institution:

31 (i) the full name of the obligor;

32 (ii) the address of the obligor;

33 (iii) the Social Security or other taxpayer identification number of
34 the obligor;

35 (iv) any other identifying information needed to assure positive
36 identification of the obligor; and

1 (v) for each account of the obligor, the obligor's account number and
2 balance.

3 (3) A report submitted under paragraph (1)(i) of this subsection shall be
4 provided to the Administration in machine readable form.

5 (4) The Administration shall pay the financial institution a reasonable
6 fee, not to exceed the actual costs incurred by the financial institution to comply with
7 the requirements of this section and § 10-108.3 of this subtitle including costs for:

8 (i) compiling and providing reports to the Administration;

9 (ii) compiling and providing reports through the Federal Parent
10 Locator Service, but in such a case the actual costs of the financial institution shall be
11 based on a percentage of the financial institution's total actual cost, which percentage
12 shall be determined by dividing the total number of accounts maintained by the
13 financial institution in Maryland by the total number of accounts maintained by the
14 financial institution for all jurisdictions included in the report; and

15 (iii) necessary upgrades to existing computer, software, or other
16 data compilation systems that are directly related to compliance with the
17 requirements of this section and § 10-108.3 of this subtitle.

18 (5) The Administration may institute civil proceedings to enforce this
19 section.

20 [(e)] (F) A financial institution that complies with a request from the
21 Administration by notifying the Administration or submitting a report to the
22 Administration in accordance with subsection [(d)] (E) of this section is not liable
23 under State law to any person for any:

24 (1) disclosure of information to the Administration under this section; or

25 (2) other action taken in good faith to comply with the requirements of
26 this section.

27 (G) AN INSTITUTION-AFFILIATED PARTY, AS DEFINED IN SUBSECTION
28 (A)(4)(II) AND (V) OF THIS SECTION, IS NOT REQUIRED TO PROVIDE INFORMATION AND
29 ASSISTANCE UNDER THIS SECTION IF THE FINANCIAL INSTITUTION WITH WHICH
30 THE PARTY IS AFFILIATED HAS OTHERWISE PROVIDED THE REQUIRED
31 INFORMATION OR ASSISTANCE.

32 10-108.3.

33 (A) (1) IN THIS SECTION AND IN § 10-108.4 OF THIS SUBTITLE, "FINANCIAL
34 INSTITUTION" MEANS:

35 (I) A DEPOSITORY INSTITUTION, AS DEFINED IN THE FEDERAL
36 DEPOSIT INSURANCE ACT AT 12 U.S.C. § 1813(C);

1 (II) A FEDERAL OR STATE CREDIT UNION, AS DEFINED IN THE
2 FEDERAL CREDIT UNION ACT AT 12 U.S.C. § 1752;

3 (III) A STATE CREDIT UNION REGULATED UNDER TITLE 6 OF THE
4 FINANCIAL INSTITUTIONS ARTICLE; OR

5 (IV) A BENEFIT ASSOCIATION, INSURANCE COMPANY, SAFE
6 DEPOSIT COMPANY, MONEY MARKET MUTUAL FUND, OR SIMILAR ENTITY DOING
7 BUSINESS IN THE STATE THAT HOLDS PROPERTY OR MAINTAINS ACCOUNTS
8 REFLECTING PROPERTY BELONGING TO OTHERS.

9 (2) IN THIS SECTION AND IN § 10-108.4 OF THIS SUBTITLE, "FINANCIAL
10 INSTITUTION" DOES NOT INCLUDE AN INSTITUTION-AFFILIATED PARTY, AS DEFINED
11 IN § 10-108.2(A)(4)(II) AND (V) OF THIS SUBTITLE.

12 [(a)] (B) (1) If an obligor identified in a report submitted under Section
13 10-108.2 of this subtitle or in a report made to the Federal Parent Locator Service
14 under 42 U.S.C. § 666(a)(17) is \$500 or more in arrears of a child support obligation
15 and has not paid child support for more than 60 days, the Administration may
16 institute an action to attach and seize the amount of the arrearage in one or more of
17 the accounts of the obligor with a financial institution to satisfy the amount of
18 arrearage owed by the obligor.

19 (2) Before attaching and seizing the obligor's accounts, the
20 Administration shall send a notice to the obligor at the obligor's last known address
21 advising the obligor of the enforcement actions that may be taken, including that the
22 obligor's accounts may be subject to garnishment for payment of a child support
23 arrearage.

24 [(b)] (C) (1) If the Administration institutes an action against an obligor
25 under subsection [(a)] (B) of this section, the Administration shall send a notice to the
26 financial institution in which one or more of the obligor's accounts are located, by
27 certified mail, return receipt requested, or by other method acceptable to the financial
28 institution, at the address designated for this purpose by the financial institution or,
29 if no address has been designated, to the principal office of the financial institution.

30 (2) The notice shall contain the following information, to the extent
31 known by the Administration:

32 (i) the address of the Administration;

33 (ii) the telephone number, address, and name of a contact person at
34 the Administration;

35 (iii) the name and Social Security number or other taxpayer
36 identification number of the obligor;

37 (iv) the address of the obligor;

1 (v) for each account of the obligor, the obligor's account number and
2 known balance with the financial institution;

3 (vi) the amount of arrearage that the financial institution shall
4 seize and attach from one or more of the accounts of the obligor; and

5 (vii) a statement instructing the financial institution to immediately
6 attach and seize the amount of arrearage stated in item (vi) of this paragraph from
7 one or more of the accounts of the obligor and, upon subsequent notice by the
8 Administration, to forward the amount to the Administration.

9 [(c)] (D) (1) On receipt of the notice under subsection [(b)] (C) of this
10 section, the financial institution shall promptly seize and attach from one or more of
11 the accounts identified in the Administration's notice to the financial institution an
12 aggregate amount equal to the lesser of the amounts in all accounts or the amount
13 stated in the notice.

14 (2) Not later than 30 days after the financial institution receives the
15 notice directing it to seize and attach accounts of the obligor, the financial institution
16 shall send notice to the Administration by regular mail specifying the aggregate
17 amount held under this subsection.

18 (3) If an account that has been seized and attached is maintained by the
19 obligor with one or more account holders of interest as reflected on the records of the
20 financial institution, the financial institution's notice to the Administration shall
21 state that fact and shall provide, to the extent reflected in the financial institution's
22 records, the name and address of the other person or persons.

23 (4) (i) The financial institution may assess a fee against the accounts
24 or the obligor, in addition to the amount identified in the notice under subsection
25 [(b)] (C) of this section.

26 (ii) In the case of insufficient funds to cover both the fee and the
27 amount identified in the notice under subsection [(b)] (C) of this section, the financial
28 institution may first deduct and retain the fee from the amount seized and attached
29 as provided in this section.

30 (5) The financial institution may not be held liable to any person,
31 including the Administration, the obligor, or any person named on the account, for
32 wrongful dishonor or for any other claim relating to the seizure and attachment of the
33 account or other actions taken in compliance with this section.

34 [(d)] (E) (1) Within 2 days after the Administration has received the return
35 receipt from the notice sent to the financial institution under subsection [(b)] (C) of
36 this section, the Administration shall promptly send a notice to the obligor, by regular
37 mail, to the obligor's last known address, or if the home address is not known, to the
38 place of last known employment.

39 (2) The notice shall contain the following information, to the extent
40 known by the Administration:

- 1 (i) the address of the Administration;
- 2 (ii) the telephone number, address, and name of a contact person at
3 the Administration;
- 4 (iii) the name and Social Security number or other taxpayer
5 identification number of the obligor;
- 6 (iv) the address of the obligor;
- 7 (v) for each account of the obligor, the obligor's account number and
8 known balances with the financial institution;
- 9 (vi) the total amount of the arrearage owed by the obligor;
- 10 (vii) the date the notice is being sent;
- 11 (viii) a statement informing the obligor that the Administration has
12 directed the financial institution to seize and attach the amount of the arrearage
13 owed by the obligor from one or more of the accounts of the obligor and, upon
14 subsequent notice by the Administration, to forward the amount to the
15 Administration; and
- 16 (ix) a statement informing the obligor that, unless a timely
17 challenge is made to the Administration by the obligor or an account holder of interest
18 under subsection [(g)] (H) of this section, the Administration shall notify the financial
19 institution to forward the amount seized and attached by the financial institution to
20 the Administration.
- 21 [(e)] (F) If a timely challenge is not made by the obligor or an account holder
22 of interest under subsection [(g)] (H) of this section, the Administration shall send a
23 notice to the financial institution, in the manner specified in subsection [(b)] (C) of
24 this section, directing the institution to forward the amount seized and attached by
25 the financial institution to the Administration.
- 26 [(f)] (G) The Administration shall apply the amount seized and forwarded by
27 the financial institution to the obligor's child support arrears. If the obligor has more
28 than one child support case with arrears, the Administration shall allocate the
29 amount received among one or more of the obligor's cases, as determined appropriate
30 by the Administration.
- 31 [(g)] (H) (1) An obligor or an account holder of interest may challenge the
32 actions of the Administration under this section by:
- 33 (i) filing a request for an investigation with the Administration; or
- 34 (ii) filing a motion with the circuit court.
- 35 (2) A challenge under paragraph (1)(i) of this subsection shall:
- 36 (i) be in writing;

1 (ii) be received by the Administration within 30 days from the date
2 of the notice under subsection [(d)] (E) of this section;

3 (iii) be sent to the contact person identified in the notice sent to the
4 obligor under subsection [(d)] (E) of this section; and

5 (iv) specify, in detail, the reasons for the challenge.

6 (3) An obligor or account holder of interest may not challenge the actions
7 of the Administration on issues related to visitation, custody, or other matters not
8 related to an account.

9 (4) An obligor or an account holder of interest may challenge the actions
10 of the Administration based on an exemption in § 11-504 or § 11-603 of the Courts
11 Article or for any other good cause.

12 [(h)] (I) (1) Upon receipt of a challenge under subsection [(g)] (H) of this
13 section, the Administration shall review the challenge in accordance with this
14 subsection.

15 (2) The Administration shall release or reduce the amount seized and
16 attached by the financial institution for a mistake of fact, including:

17 (i) a mistake in the identity of the obligor;

18 (ii) a mistake in the ownership of an account;

19 (iii) a mistake in the contents of an account;

20 (iv) a mistake in the amount of arrearage due; or

21 (v) any other good cause.

22 (3) The Administration shall release or reduce the amount seized and
23 attached by the financial institution if the account is exempt under § 11-504 or §
24 11-603 of the Courts Article or for any other good cause.

25 (4) The Administration shall send a notice to the financial institution, in
26 the manner specified in subsection [(b)] (C) of this section, directing the financial
27 institution to release the amount seized and attached by the financial institution if
28 the Administration determines that a mistake of fact has occurred, the account is
29 exempt under § 11-504 or § 11-603 of the Courts Article, or other good cause exists.

30 (5) The Administration shall send a notice to the financial institution, in
31 the manner specified in subsection [(b)] (C) of this section, directing the financial
32 institution to reduce the amount seized and attached to the revised amount stated
33 and to release the excess amount if the Administration determines that:

34 (i) the amount owed by the obligor is less than the amount
35 originally indicated on the notice under subsection (b) of this section;

1 (ii) the obligor does not have an ownership interest in one or more
2 of the accounts seized and attached or a portion thereof; or

3 (iii) the account or a portion of the account is exempt under § 11-504
4 or § 11-603 of the Courts Article or other good cause exists.

5 [(i)] (J) (1) The Administration shall send by regular mail a notice of its
6 findings, including a finding of no mistake of fact, to the obligor and any other
7 challenging party.

8 (2) The notice shall inform the obligor or the challenging party of the
9 right to appeal the decision of the Administration to the Office of Administrative
10 Hearings or to the circuit court.

11 [(j)] (K) If no timely appeal is filed, the Administration shall send a notice to
12 the financial institution, in the manner specified in subsection [(b)] (C) of this
13 section, directing the financial institution to forward the amount specified in the
14 notice, including any revised amount under subsection [(h)(5)] (I)(5) of this section, to
15 the Administration.

16 [(k)] (L) (1) An appeal to the Office of Administrative Hearings authorized
17 under subsection [(i)] (J) of this section shall be conducted in accordance with Title
18 10, Subtitle 2 of the State Government Article.

19 (2) An appeal to the Office of Administrative Hearings shall be:

20 (i) in writing; and

21 (ii) received by the Office of Administrative Hearings within 30
22 days after the notice is sent to the obligor or other challenging party under subsection
23 [(i)] (J) of this section.

24 [(l)] (M) After the completion of an appeal to the Office of Administrative
25 Hearings authorized under subsection [(i)] (J) of this section, the Administration
26 shall:

27 (1) send a notice to the financial institution, in the manner specified in
28 subsection [(b)] (C) of this section, directing the financial institution to release the
29 amount seized and attached by the financial institution if the Office of Administrative
30 Hearings finds that:

31 (i) there is a mistake of identity;

32 (ii) the obligor does not have an ownership interest in the contents
33 of any account held; or

34 (iii) there is no arrearage;

35 (2) send a notice to the financial institution, in the manner specified in
36 subsection [(b)] (C) of this section, directing the financial institution to release the

1 attachment on any amount in excess of the revised amount stated and that the
2 revised amount stated be forwarded to the Administration if the Office of
3 Administrative Hearings finds that:

4 (i) the obligor is delinquent, but the amount of the arrearage is less
5 than the amount indicated in the notice under subsection [(b)] (C) of this section or in
6 a subsequent notice under subsection [(h)(5)] (I)(5) of this section; or

7 (ii) the obligor does not have ownership interest in one or more of
8 the accounts seized and attached or a portion of the accounts; or

9 (3) send a notice to the financial institution, in the manner specified in
10 subsection [(b)] (C) of this section, directing the financial institution to transfer the
11 amounts seized and attached to the Administration if the Office of Administrative
12 Hearings upholds the determination of the Administration.

13 [(m)] (N) (1) A challenging party may withdraw an administrative challenge
14 or appeal by submitting a notice of the withdrawal to the person identified as the
15 contact person for the Administration in the notice under subsection [(d)] (E) of this
16 section, or to the Office of Administrative Hearings.

17 (2) The Administration may withdraw the notice to attach accounts by
18 sending notice to the financial institution, in the manner specified in subsection [(b)]
19 (C) of this section, directing the financial institution to release the attachment on the
20 account.

21 [(n)] (O) If a determination is made by the Administration or by the Office of
22 Administrative Hearings that the account or accounts of the obligor should not have
23 been held, the Administration shall notify the financial institution, in the manner
24 specified in subsection [(b)] (C) of this section, to release the amount seized and
25 attached by the financial institution.

26 [(o)] (P) (1) A financial institution that complies with a request or notice
27 from the Administration made under this section is not liable under State law to any
28 person for:

29 [(1)] (I) any disclosure of information to the Administration under this
30 section;

31 [(2)] (II) seizing and attaching any amounts from an account, sending
32 any amount seized and attached by the financial institution to the Administration, or
33 releasing all or a part of the amount seized and attached by the financial institution;
34 or

35 [(3)] (III) any other action taken in good faith to comply with the
36 requirements of this section.

37 (2) AN INSTITUTION-AFFILIATED PARTY, AS DEFINED IN §
38 10-108.2(A)(4)(II) AND (V) OF THIS SUBTITLE, IS IMMUNE FROM ANY CIVIL LIABILITY
39 OR CRIMINAL PENALTY FOR ANY ACTION TAKEN UNDER THIS SECTION.

1 [(p)] (Q) (1) Notwithstanding any other statutory provisions or rules of court
2 that provide for the execution, attachment, garnishment, or levy against an account,
3 and subject to paragraph (2) of this subsection, the Administration may utilize the
4 procedures established in this section exclusively to collect delinquent child support.

5 (2) This section may not be construed to prohibit the Administration
6 from collecting delinquent child support in any other manner authorized by law.
7 10-108.4.

8 (a) If the Administration institutes an action under [§ 10-108.3(a)] §
9 10-108.3(B) of this subtitle and no obligor has any ownership interest in a seized
10 account at the time the Administration institutes the action, the Administration shall
11 reimburse the account holders of interest for fees incurred as a result of instituting
12 the action, including:

13 (1) fees assessed by the financial institution as a result of the
14 Administration's action;

15 (2) fees assessed by the financial institution for insufficient funds;

16 (3) fees assessed by merchants for dishonored checks; and

17 (4) reasonable attorney's fees incurred by the account holders of interest
18 related to an administrative or judicial review of the Administration's decision to
19 institute the action.

20 (b) An account holder of interest who wishes to request reimbursement under
21 this section shall file a written request within 60 days after the account is seized. The
22 request shall include copies of the notices or other proof of the assessment of fees for
23 which reimbursement is sought.

24 (c) The Administration is not required to reimburse an account holder of
25 interest for fees incurred if:

26 (1) the account holder of interest fails to make a request for
27 reimbursement within 60 days after the account was seized;

28 (2) the account holder of interest fails to provide proof of the assessment
29 of fees; or

30 (3) the fees were incurred as a result of a debit made to the account after
31 the account holder of interest had actual notice of the account seizure.

32 (d) This section does not apply to fees incurred as a result of a judicial
33 garnishment.

34 (e) A financial institution has no obligation to reimburse fees assessed as a
35 result of the Administration instituting an action under § 10-108.3 of this subtitle or
36 as otherwise permitted by law or authorized by contract.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 July 1, 2003.